

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GARY BURNS, an individual,

Plaintiff,

v.

JOSEPH ARSENAULT, JANE DOE
ARSENAULT, ET AL.,

Defendant.

No. C03-2870 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon the Plaintiff's Motion to Modify Scheduling Order and to Amend Complaint.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Plaintiff seeks to amend his complaint to add a claim under the Commodities Exchange Act ("CEA"), Title 7 U.S.C. §1, *et seq.* Plaintiff's complaint, as it stands now, contains claims under the Securities Exchange Act of 1934 ("SEA") along with various state law fraud claims. The CEA claim is merely a further ideation of the SEA and fraud claims. Allowing plaintiff's requested amendment will not result in the need for further discovery or the continuance of the trial. Even if the Court were to deny the amendment, plaintiff would still be entitled to relief under the CEA if the evidence at trial proved a violation of the Act. Fed.R.Civ.P. 54(c). Thus, defendants are not prejudiced by allowing the amendment. Therefore, because leave to amend should be "freely given", Fed.R.Civ.P. 15(a), and because the defendants will not be prejudiced by the amendment, it is hereby

1 ORDERED that plaintiff's motion to modify the scheduling order and to amend complaint
2 (Dkt. #178) is GRANTED. The clerk shall file plaintiff's Third Amended Complaint (attached to
3 Ebel Decl., Dkt. #179).

4 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of
5 record.

6 DATED this 18th day of APRIL, 2005.

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9 RONALD B. LEIGHTON
10 UNITED STATES DISTRICT JUDGE
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